

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ARKIL JOHNSON

Plaintiff,

v.

ORDER
05-CV-451

HABLE, ET AL.,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1), on March 8, 2007. On January 10, 2008, defendants filed a motion for summary judgment. On August 1, 2008, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendants' motion for summary judgment be denied.

Plaintiff filed objections to the Report and Recommendation on September 24, 2008.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendants' motion for summary judgment

is denied. The case is referred back to Magistrate Judge McCarthy for assignment of counsel.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September 30 , 2008